

**STATE OF CALIFORNIA
MANAGED RISK MEDICAL INSURANCE BOARD
1000 G STREET, SUITE 450
SACRAMENTO, CA 95814**

**Title 10. INVESTMENT, CALIFORNIA CODE OF REGULATIONS
CHAPTER 5.8 MANAGED RISK MEDICAL INSURANCE BOARD
HEALTHY FAMILIES PROGRAM**

**AMEND SECTIONS: 2699.6619; 2699.6700; 2699.6703; 2699.6705;
2699.6709; 2699.6711; 2699.6713; 2699.6715; 2699.6717; 2699.6721; 2699.6723; and
2699.6725;**

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

The Initial Statement of Reasons continues to apply and is incorporated by reference herein, except for the following corrections and additions:

The statement on page 16 of the Initial Statement of Reasons regarding subsection 2699.6713(a)(17) is corrected to read: "Renummer subsection 2699.6713(a)(17) to 2699.6713(a)(18) and amend the subsection to clarify that only the surgical removal of implants is an excluded benefit to be consistent with the industry standard, and was recommended by DMHC in their review of the program's Model Evidence of Coverage."

The statement on page 19 of the Initial Statement of Reasons regarding subsection 2699.6723(a)(11) is corrected to read: "Delete subsection 2699.6723(a)(11) because the information is now contained in adopted subsection 2699.6721(d)."

The proposed regulations were reviewed in a public meeting by the Managed Risk Medical Insurance Board on April 27, 2005 and were approved by the Board at a public meeting on May 25, 2005. (The previous sentence corrects public meeting dates stated in the Notice of Proposed Regulations.) The regulations were again presented to the Managed Risk Medical Insurance Board and approved on June 23, 2008, as indicated in Tab 10 of this rulemaking file.

Subsequent to Managed Risk Medical Insurance Board approval of the regulations and pursuant to review of the regulations by the Office of Administrative Law, a number of nonsubstantial changes were made to the final regulation text for publication in the California Code of Regulations (CCR). All changes are minor and do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision. The nonsubstantial changes include:

--Minor wording corrections and wording clarifications;

--Punctuation and capitalization corrections;
--Correction of cross-references;
--Corrections to properly show existing regulation text as printed in the CCR;
--Correction of underline/strikeout to properly show changes being made to existing regulation text; and
--The addition of instructions to the CCR publisher regarding the insertion and removal of paragraph breaks.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

ALTERNATIVES DETERMINATION

The Managed Risk Medical Insurance Board has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF AUGUST 3, 2007 THROUGH SEPTEMBER 26, 2007.

The originally proposed text was made available for public comment for at least 45 days from August 3, 2007 through September 26, 2007. Pursuant to Government code section 11346.9(a)(3) and (a)(5), MRMIB has summarized and responded to those comments as follows:

**Summary And Response To Public Comments
Regarding The Implementation of AB 343 (2004) Healthy Families Program
Provisions on Plan Transfers and Clarification of Benefits**

Public Comments were received from three (3) organizations:

- 1. Strathmore Union Elementary School District Healthy Start Preschool Program**
- 2. Blue Cross of California**
- 3. Molina Healthcare**

**Strathmore Union Elementary School District Healthy Start Preschool Program
Public Comment 1**

Comment 1a: Section 2699.6619(b)

Strathmore Union Elementary School District, Healthy Start Preschool Program (SUESD) supports the provisions of AB 343 that would allow Healthy Families Program (HFP) subscribers to change plans for any reason within first three months of coverage.

Response:

Because the proposed regulations would allow HFP subscribers to change plans for any reason within the three months of coverage, the Managed Risk Medical Insurance Board (MRMIB) will make no change to the proposed regulations.

Comment 1b: (No section cited.)

SUESD states the changes proposed by AB 343 should not impact the financial responsibility of HFP families.

Response:

The proposed regulation changes do not affect the cost of premium payments made by HFP families. Therefore, no changes will be made to the proposed regulations.

Comment 1c: Section 2699.6619(b)

SUESD states that dental and vision plans should be given the same consideration as medical coverage for HFP subscribers, and that such a change will assure conformity in the regulation of the HFP enrollment process.

Response:

These proposed regulation changes do provide conformity to HFP dental, and vision plans as well as health plans to allow subscribers to change plans for any reason within the first three months of coverage. For that reason, no changes to the proposed regulations will be made.

**Blue Cross of California
Public Comment 2**

Comment 2a: Section 2699.6700(a)(10)(A) previously Section 2699.6700(a)(12)(A)

Blue Cross (BC) states currently under Section 2699.6619 plans are required to cover unlimited "visits" for persons with severe mental illness (SMI). BC states that the proposed regulations will require plans to cover unlimited "in-patient days" for persons

with SMI. BC also defines “visit” as an outpatient professional therapy visit, while “inpatient day” is defined as an intensive facility based treatment. BC states the change in language would change the way their organization provides the mental health benefit and have direct cost implications.

Response:

The change of terminology from “visit” to “inpatient day” occurs in the section of the regulation dealing with coverage for inpatient mental health benefits “during a certified confinement in a participating hospital when ordered and performed by a participating mental health provider for the treatment of a mental health condition.” (Section 2699.6700 (a)(10)(A); emphasis added.) The word “visit” is not accurate in this context because the benefit relates to confinement in a hospital. Therefore, the benefit should be described as an “inpatient day.” Replacing “visit” with “inpatient day” clarifies that plans are required to provide inpatient mental health services with no limits for severe mental illnesses as described in the regulation. This language does not change the inpatient mental health benefit. Therefore, MRMIB rejects the comment.

Comment 2b: (No section cited)

BC would like MRMIB to consider a provision requiring families to cooperate with the referral process and the Serious Emotional Disturbance (SED) evaluation conducted by the counties. BC states the reason this is needed is because some families would rather have their children’s mental health benefits provided through the plan, and are therefore refusing to have their child take the SED evaluation. Subsequently, instead of providing up to 30 days of service for children with a SED condition, the plan is providing unlimited services which increase costs. The commenter further suggests the intent of the referral process is being negated.

Response:

The recommendation is not directed at the agency’s proposed action or the procedures followed by the agency in proposing or adopting the action. Therefore, MRMIB rejects the comment.

**Molina Healthcare
Public Comment 3**

Comment 3a: Section 2699.6700(a)

Molina Healthcare (MH) suggests the proposed regulation change to delete the words “medically necessary” in Section 2699.6700 will cause confusion.

Response:

Section 2699.6703(a)(3) provides that services, supplies, items, procedures or equipment which are not medically necessary are excluded from health benefits plans unless otherwise stated in Section 2699.6700. In addition, the health plan determines medical necessity. Continuing to repeat the standard of medically necessary services and equipment would be redundant. Therefore, this comment is rejected.

Comment 3b:

MH states modifying the term “visits” to inpatient days” in 2699.6700 (10)(a)(A) changes the plan benefit and potentially increases financial risk to the health plan.

Response:

For the reasons stated in response to Blue Cross Comment 2a, the comment is rejected.

Comment 3c:

MH states modifying the term “determination” to “evaluation” in Section 2699.6700 (a)(10)(A) is unclear. And states that it is unclear how this change impacts the process whereby the county mental health department evaluates the patient for Serious Emotional Disturbances (SED).

Response:

MRMIB believes that the term “evaluation” better described the SED process. Typically, the term “evaluation” means “a diagnosis or diagnostic study of a physical or mental condition.” By contrast, the term “determination” means “the act of coming to a decision or a fixing or settling a purpose.” (Dictionary.com.) For that reason, MRMIB rejects the comment.

Comment 3d:

MH asked for clarification as to whether the change in Section 2699.600 (a)(10)(B) which deletes language permitting health plans to limit outpatient mental health coverage to 20 days per benefit year and replaces it with language that requires health plans to provide up to at least 20 outpatient mental health visits per year constitutes a material change to the outpatient mental health benefit.

Response:

MRMIB believes MH is referring to Section 2699.6700(a)(10)(B). As indicated in the Initial Statement of Reasons, the intent of the changes being made to the fourth paragraph of this section is to eliminate duplicative language and combine the two

sentences for clarity. The proposed revisions are not intended to constitute a material change to the benefit. However, as a nonsubstantive change, the MRMIB has modified the opening phrase of this paragraph to eliminate the words “at least”, to further clarify the language, so that the opening phrase now reads: “Plans must provide up to 20 visits per benefit year....”

ECONOMIC IMPACT ON SMALL BUSINESS

No commenter proposed an alternative to lessen any adverse economic impact on small businesses.